

EX PARTE OR LATE FILED
COALITION FOR WIRELESS COMPETITION **RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

February 24, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M. Street N.W. Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

RE: Ex Parte Presentation
GEN 90-314 and PP 93-253
Personal Communications Service

Dear Mr. Caton:

On February 23, 1994, the Coalition for Wireless Competition, represented by David Aylward, Betty Ann Kane, George Murray, Richard Stamberger, Curtis White, Larry Wallace, Pedro Alfonso, and Oye Ayjai-Obe held meetings with The Honorable Reed Hundt and the following members of the Commission staff, Mr. Robert Pepper, Mr. Don Gips, and Ms. Diane Cornell.

The meetings were to determine the status of the PCS docket and to present the Coalition's position on PCS and spectrum auctions as described in the attached position paper.

Pursuant to section 1.1206(a)(1) of the Commission's rules, an original and a copy of this letter are being filed with your office.

Sincerely,



Richard D. Stamberger

cc: The Honorable Reed Hundt
Mr. Robert Pepper
Mr. Don Gips
Ms. Diane Cornell

COALITION FOR WIRELESS COMPETITION

Outline of Policy Position

The Coalition for Wireless Competition advocates (1) maximum opportunity for all parties to participate in PCS, (2) a maximum number of relatively equal licenses, i.e. all on a BTA basis, (3) designated licenses and fair opportunities for minority-owned, women-owned, and small businesses, and (4) a fair return to the Government for the use of the Nation's airwaves.

The following positions are critical for the Federal Communication Commission to achieve these goals.

Licensing Plan

- 1) The PCS auction must include the 10 MHz and 20 MHz BTA licenses designated in the FCC's proposed rules only for bidding by members of preferred groups.
- 2) The FCC should redesignate the sizes of the 2 30 MHz MTA licenses so bidding opportunities are increased, and initial licenses are more comparable. Turning these two huge licenses into 3 20 MHz BTA licenses is the best outcome.

Pre-Auction Requirements

- 3) Minorities, women, small business and rural telephone carriers should receive special status in the PCS process. The FCC should set the criteria for qualifying for designated entity status as follows.
 - Define "minority" and "rural carrier" using current FCC rules.
 - Define "women" by sex of owners; they must have 51% or more ownership and control of management.
 - Define "small business" as less than \$18 million in net worth and \$6 million in net income, or a similar definition based on revenues; they must have 51% or more ownership and control of management.
 - Restrict rural telephone preference to license encompassing their current service area only.
- 4) The FCC must write criteria, attribution and overlap rules carefully to avoid disincentives to partnering with designated entities. Thus, the overlap percentage of a license area proposed by the FCC should be increased substantially before it triggers attribution. Up to 25% ownership by non-designated entities will not be counted against their spectrum ownership restrictions within a license area. And joint ventures between a designated entity with a BTA license and a large company with adjacent licenses should not alter either's status, or trigger attribution.

- 5) In addition to reasonable application fees, winning bidders should be required to pay, within a week of a successful bid, non-refundable deposits of \$10,000 plus 2¢ per pop for 10 MHz licenses; for designated entities winning 20 MHz licenses, this fee should be \$20,000 plus 2¢ per pop.

Auction and Auction Financing

- 6) Designated entities should pay 10% of auction price (less the above deposit) within 3 months. 90% would be paid over time, after a window to get construction done and customers using the system. No further payments would be required until the end of the third year after the auction, at which point payments of 15% of the auction price would be made each year for the next 6 years.
- 7) Auction winners need not demonstrate full financial capability (i.e. bank letters of credit) to build the system in order to receive the license. Rules will require filing of business/construction plan within one year, with no FCC approval of same required; good faith efforts to proceed will suffice.
- 8) Designated entities bidding for non-designated licenses should receive bidding discounts of 10-20%. If they bid in conjunction with others, this discount should be proportional to their share of investment in the partnership. Other ways of providing preferences to members of designated groups should be included in overall FCC policy for spectrum auctions, and may be appropriate in the case of PCS as well. These include such matters as bidding discounts (for non-designated licenses) and tax certificates.

Post Licensing Rules

- 9) The FCC should work with the SBA to have the SBA set guidelines for investors to provide financing to designated entities with SBA guarantees.
- 10) In general, designated entities should be subject to the same rules as all other parties. The FCC should institute a waiver process whereby a designated license holder can demonstrate why it should not have to meet the same universal construction and other rules as all other winning bidders (e.g. it wants to pursue a niche business strategy, while four other license holders in that market are pursuing broad services to all the public).
- 11) Designated license holders should be given access at non-discriminatory rates to backbone infrastructure of current local carriers (LECs and cable systems).
- 12) All financing and similar rights of the initial designated entity should be preserved if the entity transfers its license to another designated entity. There would be no restrictions on transferring a license to a non-designated entity other than those provided in the following paragraph.

- 13) Any new licensee which is not a designated entity would have to pay the Government the balance due of the spectrum bid immediately. Until 5 years after initial award, a non-designated entity would pay in addition the difference, if any, between the amount initially bid by the designated entity and the "market" price, based on the average of bids for non-designated entities.
- 14) In order to improve initial access to capital for designated entities, the FCC should allow investors assume the license themselves in a default situation, subject to later FCC review of the investors' qualifications; the remedy if the FCC finds such investor not qualified should be to require the investor to auction the license, subject to the above required payments to the Government.
- 15) The FCC should provide an "infrastructure preference" of a crediting of a 25% of a designated license holders' installment payments if such entity: puts its headquarters/operations centers in empowerment/enterprise zones; hires a work force reflective of such area's population; spends at least 1% of revenues on training disadvantaged employees; and spends 10% of its capital goods, construction, and equipment budgets with entities meeting the above preferred definitions. This provision would be enforced in the first instance by a required independent audit each year, and review of the audit and the entity's practices by an economic development entity designated by the state of the license.
- 16) The FCC should propose that Congress set aside a percentage of auction revenue for training members of disadvantaged groups in telecommunications skills to increase their employment opportunities in this industry.